



**WALSH COLUCCI
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April 26, 2007

Via Hand Delivery

Michael Elabarger
Planner - Land Use Review
Loudoun County Department of Planning
One Harrison Street, Third Floor
Leesburg, VA 20176

Re: ZCPA 2006-0005, University Center

Dear Mr. Elabarger:

This letter addresses and provides you with a written response to the referral agency comments in the above referenced application. For your convenience, each of the staff comments are stated below and the Applicant's responses follow in bold italics.

**LOUDOUN COUNTY DEPARTMENT OF PLANNING-COMMUNITY PLANNING
(MELANIE WELLMAN, 8/16/2006)**

**ANALYSIS
LAND USE**

University Center has been developed with residential and retail uses, which are not in conformance with the Keynote Employment policies of the Plan. Future development along this area of Route 7 should comply with the land use policies of the Plan related to Keynote Employment. Staff supports the proposed addition of office uses. However, staff is unable to support additional retail uses as the retail is not proposed to be internal and is not easily accessible to the Business Community. Retail would also attract automobile traffic from Route 7, which is not the intent of Employment Supportive Retail. Staff is unable to support the request for additional retail on land bays E, F, H, and P.

Applicant Response: ZCPA 2000-0009 established the location and proportional density for the employment supportive retail appropriate to the PD-RDP district, as well as the site design features appropriate for the supportive retail uses so as to minimize their view from Route 7. This amendment maintains all of these features from ZCPA 2000-0009 and merely proposes to

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increase the supportive retail uses maintaining the same proportions as the maximum permitted square footage of some of these land bays increases due to parcel size increase. It is not unreasonable for a community as large as University Center with zoning approvals for up to 2,388 dwelling units and a maximum potential for 2.9 million square feet of employment uses, excluding the university campus facility, to include a maximum potential of 140,746 square feet of accessory retail, with a maximum retail square footage on any of these four parcels to be 11% of the total permitted square footage.

RECOMMENDATIONS

While the proposal for additional office is compatible with Keynote Employment, the proposed additional retail is not. Any additional retail proposed should be Employment Supportive, per the Keynote Employment policies of the Revised General Plan and the retail policies of the Retail Plan. Staff is unable to recommend approval of the ZCPA until the issue regarding the proposed retail is addressed.

Applicant Response: *ZCPA 2000-0009 established the location and proportional density for the employment supportive retail appropriate to the PD-RDP district, as well as the site design features appropriate for the supportive retail uses so as to minimize their view from Route 7. This amendment maintains all of these features from ZCPA 2000-0009 and merely proposes to increase the supportive retail uses maintaining the same proportions as the maximum permitted square footage of some of these land bays increases due to parcel size increase. It is not unreasonable for a community as large as University Center with zoning approvals for up to 2,388 dwelling units and a maximum potential for 2.9 million square feet of employment uses, excluding the university campus facility, to include a maximum potential of 140,746 square feet of accessory retail, with a maximum retail square footage on any of these four parcels to be 11% of the total permitted square footage.*

LOUDOUN COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT-ZONING ADMINISTRATION (TERESA MILLER, 8/7/2006)

Zoning Administration has reviewed the above referenced **Zoning Concept Plan Amendment (ZCPA)** application for conformance to the 1972 Loudoun County Zoning Ordinance and has the following comments.

CRITICAL ISSUES

1. The Statement of Justification makes reference to Section 1208 of the 1972 Zoning Ordinance, however, the justification that follows addresses Section 6-1211(E) of the Revised 1993 Loudoun County Zoning Ordinance. Please provide justification that addresses Section 1208 of the 1972 Zoning Ordinance.

Applicant Response: *The Statement of Justification has been revised to refer to Section 1208 of the 1972 Zoning Ordinance.*

2. It has been indicated that a number of proffers have been fulfilled. A proffer audit needs to be submitted to proffer manager Susan Glass, Department of Building and

Development. Submit adequate information such that staff can verify that proffers have been fulfilled to enable County records to be updated if necessary. This is a critical issue because the subject ZCPA proposes to replace ZCPA-2000-0009.

Applicant Response: *A proffer audit is being submitted to Susan Glass concurrent with this response letter.*

PLAN COMMENTS

1. Please insure that revision and plan dates are correct for all proffered sheets as there are variations on some pages.

Applicant Response: *The CDP has revised the revision and plan dates to be consistent.*

2. Sheet 7 - Section 2B Maximum Building Floor Area - please expand this section to give the maximum floor area for the affected parcels as to be consistent with the rest of the plan.

Applicant Response: *Note 2B has been revised to reference the Density Distribution Table, which will govern the maximum building area for each parcel. Hopefully, this revision satisfies this comment.*

3. Sheet 7 – Interchange Dedication – it appears that 8.62 acres have been dedicated to the future interchange. This is a difference of 5 acres from ZCPA-2000-0009. Please be advised that as the ultimate design plan has not been finalized by VDOT and OTS, this area may not be sufficient for the interchange.

Applicant Response: *The preliminary design plan has been approved by the Board of Supervisors (BOS minutes attached). The preliminary construction plans, on which the final construction plans and the parcels acreages are based, have been approved by OTS and VDOT (VDOT approval e-mail message attached). The final construction plans will be submitted shortly for final review and signature.*

4. Sheet 7 – Please label parcels H-1, H-2 and H-3 on the plan. Currently, all three parcels are labeled as simply H.

Applicant Response: *The Concept Plan has been revised as recommended.*

LOUDOUN COUNTY OFFICE OF TRANSPORTATION SERVICES (GEORGE PHILLIPS, 9/16/2006)

Transportation Comments

1. No interchange land can be returned to the applicant until the construction plans for the interchange receive final approval. It needs to be confirmed that all right-of-way needed for the approved construction plans is being provided.

Applicant Response: *The applicant is not requesting that interchange land be returned, since the applicant owns the land. The applicant, however, is requesting approval to develop the square footage on the land no longer will be dedicated for the interchange. The preliminary design plan has been approved by the Board of Supervisors (BOS minutes attached). The preliminary construction plans, on which the final construction plans and the parcels acreages are based, have been approved by OTS and VDOT (VDOT approval e-mail message attached). The final construction plans will be submitted shortly for final review and signature.*

2. The proposed use will increase site traffic and exacerbate congestion and failing (LOS F with average delays on some approaches of between 6-9 minutes) levels of service at the Route 7/Loudoun County Parkway and Route 7/George Washington Blvd. /Presidential Drive intersections. Since the provision of the Route 7/Loudoun County Parkway interchange is considered the most important improvement to address these concerns, the applicant needs to provide a fair share contribution towards the construction of this interchange. The approved proffers for the preliminary design and construction plans included \$1,000,000. The design process was lengthy and complicated and it is possible that this amount was exceeded by the applicant. OTS will take this into account with regard to the request for a fair share contribution.

Applicant Response: *The applicant is furnishing documentation with this submission that they have expended \$1,266,045 on the interchange design and engineering costs. The applicant appreciates the consideration that will be given for the costs they have incurred above the \$1,000,000 proffer.*

3. What is the timing/status of constructing the western portion of Riverside Parkway from the Loudoun County Parkway to the northwest on the planned alignment within the site? Also, what is the status of extending Riverside Parkway to the south, over Route 7 to Russell Branch Parkway? Please clarify.

Applicant Response: *The applicant has dedicated a 132 acre parcel to the County, which includes the land area for the Riverside Parkway and Loudoun County Parkway right of way. This land was not dedicated specifically as right-of-way, since it was included as part of the larger parcel area. The County now owns the land and can dedicate it as right-of-way whenever it chooses.*

4. Several clarifications are needed from the applicant regarding the draft proffers. On page 4 under 4. (A) Retail Development, the applicant refers to possible increases in retail square

footage. The traffic study only refers to an increase in office square footage. Please clarify. Also, on page 8 of the draft proffers under 7. On-Site and Off Site Regional Road Improvements 1. Loudoun County Parkway, the applicant is removing the construction language for the Loudoun County Parkway between Route 7 and George Washington Blvd. and replacing it with a \$1,000,000 cash equivalency. In addition, the applicant is removing other turn lane commitments in paragraphs 1.b, 1c, and 1d. Under most circumstances, OTS wants actual construction. Why are these changes being proposed in the proffers? Further discussion is needed.

Applicant Response: *A memo from Wells and Associates is attached, which documents that the minimal support retail uses proposed under this application are contemplated under the ITE general office land use category. The support retail uses are limited to Parcels E, F, H and P, with Parcel H now having been subdivided into three lots. These parcels may have a maximum of 11% of the total square footage as support retail uses, with other restrictions regarding maximum size and location imposed on them by the proffers, with the intent that these uses clearly are ancillary to the PD-RDP uses. The proposed change for a cash equivalent contribution was requested by County staff, when, during the review of the interchange construction plans, it was determined that any construction of Loudoun County Parkway would be torn up by interchange construction and, thereby, would have no value and, arguable, a negative value. This ZCPA application is primarily motivated to amend the proffers to permit the cash contribution in lieu of construction, so that the cash contribution can be applied to the ultimate interchange construction, which will include this segment of Loudoun County Parkway, rather than constructing roadway segments that will later be torn up. The applicant has met with transportation staff to discuss this comment since this referral comment was written.*

Recommendation

The applicant needs to adequately address the above outstanding issues. The Office of Transportation Services has no recommendation at this time. Transportation staff is available to further discuss these issues with the applicant.

Applicant Response: *These issues have been addressed with this response.*

VIRGINIA DEPARTMENT OF TRANSPORTATION (THOMAS VANPOOLE, 4/2/2007)

We have reviewed the above application as requested in your June 8, 2006 transmittal. We offer the following comments:

1. The approval of ZCPA 2000-0009 relieved the applicant of significant phased transportation proffers from ZMAP 1992-0004 that would otherwise have been triggered by non-residential development over 1,238,999 square feet, allowing up to 2,065,273 square feet under ZCPA 2000-0009. This application now proposes to increase that development to 2,206,019 square feet in order to utilize additional density associated with previously reserved right of way area not used by the applicant's desired interchange design. This constitutes a windfall for this applicant at the expense of the

county and state taxpayers and each previous purchaser of residential or nonresidential property in University Center.

Applicant Response: *The prior ZCPA relieved University Center of substantial transportation proffers when the maximum permitted non-residential square foot was being reduced by over 4.2 million square feet. A proposed increase of 140,000 square feet can hardly be characterized as a windfall, when compared with the former reduction. The proposed increase directly results from the construction plans for the interchange design, which the applicant has prepared and funded pursuant to the proffers for ZCPA 2000-0009 at a cost of \$1,266,045, and in which it was determined that less right-of-way was needed for the interchange than was estimated in ZCPA 2000-0009. This application merely proposes to recapture the FAR from the land not needed for the interchange right-of-way, with no increase in the maximum FAR permitted. If the land area for the interchange had been known at the time of ZCPA 2000-0009, the proposed building areas would have been included in the application at that time.*

2. The amount of previously reserved right of way available for development is dependent of final approval of the interchange plans.

Applicant Response: *The final construction plans will be submitted shortly for final review and signature.*

3. The cost estimate of \$1,000,000 in lieu of George Washington Boulevard construction (proffer 7. (A).1.a) should be submitted for review to ascertain whether it is a realistic amount that would adequately fund the related construction.

Applicant Response: *The applicant has included in this submission to the County the construction cost estimate they received for the construction of Loudoun County Parkway, on which the cash equivalent contribution proffer is based. The cash equivalent contribution proffer reflects the cost estimate received by the applicant. The remaining George Washington Boulevard construction is included in CPAP 2005-0128 and currently is under construction.*

4. 4' wide trails (proffer 2. (D)) do not comply with current ADA, AASHTO, and VDOT policies for accessible routes and shared use paths. The procedures for abandonment of public roads and vacation of public rights of way and disposition of such rights of way are prescribed in § 33.1-156 through 33.1-167 and 15.2-2006 through 15.2-2008 of the Code of Virginia. The county attorney should determine whether proposed proffer 7.(A).3 is consistent with the code.

Applicant Response: *The trail proffer has been carried forward from prior University Center zoning approvals. The applicant acknowledges that it must undergo the abandonment procedures set forth in the Code of Virginia for the Presidential Drive right-of-way. The purpose of showing it in the ZCPA is to ensure that the proposed future right-of-way abandonment will be consistent with the governing concept plan for the property and that the building floor area can be recaptured from the former right of way land area.*

**LOUDOUN COUNTY DEPARTMENT OF FIRE-RESCUE AND EMERGENCY
MANAGEMENT (MARIA TAYLOR, 8/14/2006)**

The Fire and Rescue Planning Staff, in agreement with the Fire Marshal's Office, has no objection to the application as presented.

Applicant Response: *Comment noted.*

Staff did not receive comments from the first due fire-rescue company by the requested due date.

Applicant Response: *Comment noted.*

**LOUDOUN COUNTY DIVISION OF ENVIRONMENTAL HEALTH (MATTHEW
TOLLEY, 6/27/2006)**

The Health Department recommends approval of this application. The proposed facility will be utilizing public sewer and water. All prior existing sewage disposal facilities and wells have been abandoned.

Applicant Response: *Comment noted.*

**LOUDOUN COUNTY DEPARTMENT OF ECONOMIC DEVELOPMENT (ROBYN
BAILEY, 6/16/2006)**

Economic Development is not going to be doing a referral.

Applicant Response: *Comment noted.*

The applicant looks forward to the Planning Commission public hearing date being scheduled once staff has had the opportunity to review this submission.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH &
WALSH, P.C.

Christine Gleckner, AICP
Land Use Planner

CEG/tlm

Enclosure

Cc: Deborah Behrend, Collin Equities

Bill Fissel, Dewberry

Kevin Sitzman, Wells and Associates

Randy Minchew, Walsh, Colucci

ZCPA 2006-0005, University Center
APPLICANT'S RESPONSE TO THE COMMENTS OF THE
OFFICE OF THE COUNTY ATTORNEY
DATED AUGUST 7, 2006
April 26, 2007

1. *In regard to the header, I suggest that the correct application number be included.*

Response: The header has been revised as recommended.

2. *In regard to the preamble, I do not see where an owner of Parcel F has been indicated. All of the other parcels indicated on the Concept Plan as being part of the subject Property have had the owner identified, but there does not appear to be an owner listed for Parcel F, even though this parcel is indicated to be part of the "Property". I suggest that the owner of Parcel F be identified.*

Response: Parcel F has been added to the preamble. In addition, the condominium parcels have been added.

3. *In further regard to the preamble, I note that there are Parcels identified as "H-1", "H-2", and "H-3", while on the Concept Plan they are all identified as "Parcel H". I suggest that this inconsistency be eliminated.*

Response: The Concept Plan has been revised to identify Parcels H-1, H-2 and H-3 as separate parcels.

4. *In further regard to the preamble, in the thirteenth line thereof, I suggest that a parenthetical, which reads "(collectively, the above referenced parcels shall hereinafter be referenced as the 'Property', and collectively, the above referenced parcel owners shall be referenced as 'Owners')" be inserted following the last referenced parcel number. Currently, there is a similar phrase found in the eighteenth through twentieth lines, but I believe that it would be more appropriately located after the reference to the last parcel number.*

Response: The preamble has been revised as recommended.

5. *In further regard to the preamble, in the sixteenth and seventeenth lines thereof, I note that the applicant refers to "the various components of the Concept Development Plan, (referred to, collectively, as the 'CDP')". It is not clear what Concept Development Plan is being referenced. I suggest that the applicant refer to the Concept Plan, by title, date and name of the engineering firm that produced it. I also suggest that the applicant clarify what it is that they intended to reference "collectively", as the reference is unclear.*

Response: The preamble has been revised to include the Concept Plan reference and to delete the word “collectively”. This wording has been carried forward from prior University Center proffer statements, but is deleted in response to the comment at this time.

6. In further regard to the preamble, in the twenty-third through twenty seventh lines thereof, the applicant states that “any and all zoning modifications granted” in all previous zoning cases involving University Center shall remain in effect and are being re-enacted. I urge staff to analyze this assertion to ensure that there are no contradictory modifications granted, as in the case where one might have actually been intended to supercede a previous one. I also suggest that for the sake of clarity, these modifications be listed within the application. I also suggest that if they ZMODs are to be “re-enacted”, that it would be wise to advertise them all.

Response: The prior zoning modifications are included with this submission of the application.

7. In regard to proffer 1., I note that the applicant is only proffering conformance with certain sheets from the Concept Development. These exclude sheet 12 and 13, which contain a specific buffering plan along the western side of the Property. I suggest that conformance to these sheets be included.

Response: Revised buffering plan sheets are included in the revised proffer statement.

8. In further regard to proffer 1., I note that the applicant has referenced the CDP as being dated “December 2005.”. However, the cover sheet bears a date of April 2006, while Sheets 7, 9, 10 and 11 all bear a date of March 15, 2006, and Sheet 8 bears a date of July 8, 2005. I suggest that all of the sheets should have the same date, and that this inconsistency should be eliminated.

Response: The Concept Plan has been revised to provide a consistent date on all sheets and the proffer statement reflects this date.

9. In further regard to proffer 1., which specifies conformance to the Concept Plan, I note that Sheets 7 and 8 of the Concept Plan have conflicting information on them. The acreage listed in the tables on the two sheets do not match the acreage listed with each land bay on the two sheets. Specifically, Parcels F, P and P-1 all have different acreage shown on the plat than what is contained in the table. I suggest that these be corrected.

Response: The parcel acreages are reflected only in the tables on Sheets 7 and 8, and the acreages shown on each parcel have been deleted to avoid any inconsistency. The applicant’s intent is to have the density tables be the governing information.

10. In further regard to proffer 1., I note that in the Statement of Justification the applicant has stated that the changes to the Concept Plan will yield an additional 140,746 square feet of development. However, in reviewing the Concept Plan, it appears to me that there is only 45,647 additional square feet shown. I suggest that this discrepancy be clarified and eliminated.

Response: The current concept plan for the property from ZCPA 2000-0009 is approved for 2,065,273 square feet. The density table on Sheet 8 showing the Phase I development level proposes a maximum of 2,160,372 square feet for an increase of 95,099 square feet over the current approval. The density table on Sheet 7 showing the Ultimate development level proposes a maximum of 2,206,019 for a total increase of 140,746 square feet over ZCPA 2000-0009.

11. In regard to proffers 2.(A), 2.(B), and 2.(C), I note that the applicant has indicated that these proffers have been fulfilled, and, therefore, proposes to delete them. I urge staff to confirm the assertions that these proffers have been fulfilled.

Response: A proffer audit of the proffers labeled “fulfilled” is being submitted to staff with this submission.

12. In regard to proffer 2.(D), in the last line thereof, I suggest that the phrase “and bonded as part of the approval of the site plan application” be changed to read “and shall be bonded as part of the approval of such site plan application”.

Response: The proffer has been revised as recommended.

13. In regard to proffer 3., concerning Route 7 setbacks, I note that the applicant is proposing to delete lines four through thirteen of the proffer, on the basis that it has been fulfilled. However, a part of this proffer requires that the landscape buffer be “maintained”. I suggest that this provision be retained in order to ensure that the installed buffer will be maintained.

Response: The proffer has been revised as recommended.

14. In regard to proffer 4.(D), I note that the applicant again proposes to delete a provision concerning landscaping, this time addressing the area in front of the retail center. However, I suggest that rather than deleting this provision, that it be changed to assure that the installed landscaping will be maintained.

Response: The proffer has been revised as recommended.

15. In regard to proffer 5.(A), I note that the applicant intends to delete the reference to Sheet 13. I do not understand why this reference should be deleted, or why Sheet 13 of the Concept

Plan is no longer to be followed. I suggest that this be clarified.

Response: A revised buffer plan is included with this submission, and the buffer plan sheets now are proffered.

16. In regard to proffer 6.(A), in the first line thereof, I suggest that the phrase “on the Property” be inserted following the phrase “for each building”.

Response: The proffer has been revised as recommended.

17. In regard to proffer 6.(B), in the first line thereof, the applicant refers to the definition of “habitable buildings” as contained in the Loudoun County Zoning Ordinance. However, there is no definition for this phrase contained in the Zoning Ordinance. I urge staff to check with the Building Code enforcement officials, as I believe it is the Building Code that defines “habitable building”.

Response: This term and proffer language is being carried forward from prior University Center proffers; however, the proffer has been revised to reference the building code rather than the zoning ordinance.

18. In further regard to proffer 6.(B), in the fifth line thereof, I suggest that the phrase “shall be provided” be inserted after the phrase “all other buildings”.

Response: The proffer has been revised as recommended.

19. In regard to proffer 6.(D), in the second line thereof, I note that the applicant proposes to provide emergency access “at the site plan stage of development”. Most such proffers refer to the “framing stage of development”. This seems to be a more logical point for the provision of emergency access, and I suggest that it be considered.

Response: The proffer has been revised as recommended.

20. In regard to proffer 7.(A), in the first line thereof, I suggest that the phrase “construct or contribute” be changed to “construct/bond for construction or contribute”.

Response: The proffer has been revised as recommended.

21. In regard to proffer 7.(A)1.a., concerning the Loudoun County Parkway, I note that the applicant has proposed changing their commitment from construction of a four lane section of Loudoun County Parkway, between Rt. 7 and George Washington Boulevard, to a \$1,000,000 contribution, which would be provided within sixty days of approval of this application. I urge staff to carefully evaluate the value of this section of road to ascertain

whether this is an equivalent provision. I also suggest that it be clarified in the proffer as to whether this money is only to be spent on this section of road. As written, this is not clear. I also suggest that a parenthetical stating “(One Million Dollars)” be inserted following the numeric figure for that amount.

Response: The proffer is written to contribute the money for the interchange construction, since this segment of the roadway is included in the construction plans for the interchange construction. Staff requested this proffer amendment, since the roadway that is proffered to be constructed under the ZCPA 2000-0009 proffer statement would have been removed and replaced by the interchange construction, which seemed wasteful to all parties and, thereby, would have no value and, arguably, a negative value. The cash proffer amount was based on construction cost estimates for the roadway construction proffered under ZCPA 2000-0009. The applicant has received a more recent construction cost estimate, which reflects lower costs of construction, and, therefore, the applicant has revised the amount of the cash equivalent contribution to reflect the more current estimate. The construction cost estimate has been included with this submittal. The wording for the amount of the proffer has been added as recommended.

22. In regard to proffer 7.(A)2.a., in the first line thereof, I suggest that the phrase “Construct four lane divided roadway from current terminus west to Loudoun County Parkway” be changed to “Construct George Washington Boulevard as a four lane divided roadway from its current terminus, west to its future intersection with Loudoun County Parkway”.

Response: The proffer has been revised as recommended.

23. In regard to proffer 7.(A)3., I note that the applicant has proposed the vacation of existing Presidential Drive. In the first line of the proffer, I suggest that the phrase “for Presidential Drive” be inserted following the phrase “right-of-way”. However, I also suggest that it be clarified where Land Bay P and Land Bay F, which are the two land bays affected by such a vacation, will ultimately have access. It is not clear if Parcel F is to have access from Loudoun County Parkway or not. If it is not, then I suggest that this be specified. It may also be worthwhile to clarify whether there is to be access for Parcel E from Loudoun County Parkway as well.

Response: The proffer wording has been revised as recommended. In addition, the CDP has been revised to indicate the access points to the public road system for each of the Parcels. Although the Presidential Drive right-of-way will be abandoned eventually, it is likely that a private drive potentially serving Parcels P and I-2, and possibly F, H-1, H-2 and H-3 will remain.

24. In regard to both Loudoun County Parkway and George Washington Boulevard, I note that
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the applicant has deleted the provisions requiring the dedication of right of way for these two roads. The applicant asserts that the proffer requiring the dedication of such right-of-way has been fulfilled. I urge staff to confirm this assertion, as there is no provision for the dedication of right-of way for these two roadways within this version of the proffers.

Response: The documentation of this right-of-way dedication is in the Proffer Audit, which is included with this submission to staff.

25. In regard to a number of proffers, I note that the applicant has asserted that they have been fulfilled, and therefore, they intend to delete them from the proffers. I strongly urge staff to confirm the reality of whether each such proffer has, in fact, been fulfilled.

Response: A Proffer Audit is being provided to staff with this submission.

26. In regard to proffer 7.(D)2(a), I note that there are still provision dealing with the design and preparation of construction plans and profiles for the Rt.7/Loudoun County Parkway interchange. I request that staff clarify for me exactly where the design and construction plans are in the approval process.

Response: The final construction plans are being reviewed by the applicant and will be submitted to the County for final review and signature shortly.

27. In regard to proffer 7.(E), in the third line thereof, I note that the applicant has proposed to dedicate the necessary "temporary easements" outside of the right of way that are required for construction of roadways. I question why this is only referring to "temporary" easements. I urge staff to review this to determine if any permanent easements may be necessary as well.

Response: The proffer has been revised to provide temporary and permanent easements.

28. In further regard to proffer 7.(E), I note that the applicant has deleted references to Loudoun County Parkway and George Washington Boulevard. Consequently, their commitment to providing "temporary easements" will not apply to these two regional roadways. I suggest that the provision of easements outside of the rights of way should continue to apply to these two roadways.

Response: The proffer has been revised as recommended.

29. In regard to proffer 7.(E)(1), I note that the applicant has made changes to the outline format they have been using by using parenthesis differently in different subsections. I suggest that a uniform outline format be followed.

Response: The proffers have been revised as recommended.

30. In further regard to proffer 7.(E)(1), concerning the dedication of right of way for the Rt.7/Loudoun County Parkway interchange, I note that the applicant has committed to providing the right of way needed to accommodate a specific set of design plans. I do not know the status of these plans, and there is no flexibility built into this proffer if any deviation from the submitted design plans is required. I urge staff to review the status of the submitted plans to determine if the proposed dedication needs to have some flexibility built into it.

Response: The proffer has been revised to state that the dedication will be provided in accordance with the approved construction plans for the interchange.

31. In regard to proffer 11., I note that the applicant has proposed deleting portions of the proffer dealing with the preparation of a Specimen Tree Audit. I request that staff confirm whether this audit has been performed and submitted. Additionally, I suggest that the phrase "as shown on the Specimen Tree Audit" be added to the end of the proffer.

Response: The proffer has been revised as recommended. The documentation of the Specimen Tree Audit is in the Proffer Audit included in this submission.

32. These proffers will need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.

Response: Comment noted.



**WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC**

Christine Gleckner, AICP
Land Use Planner
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October 17, 2007

Via Hand Delivery

Michael Elabarger
Planner - Land Use Review
Loudoun County Department of Planning
One Harrison Street, Third Floor
Leesburg, VA 20176

Re: Referral Response for University Center ZCPA 2006-0005

Dear Mr. Elabarger:

This letter addresses and provides you with a written response to the referral agency comments in the above referenced application. For your convenience, each of the staff comments are stated below and the Applicant's responses follow in bold italics.

**LOUDOUN COUNTY DEPARTMENT OF PLANNING – COMMUNITY PLANNING
(MELANIE WELLMAN, 5/25/2007)**

OUTSTANDING ISSUE

Proposed Retail

In the 1st referral staff stated that while the proposal for additional office use is compatible with Keynote Employment, the proposed retail is not, as it is not proposed to be internal and not easily accessible to the Business Community. The applicant responded by stating that, "ZCPA 2000-0009 established the location and proportional density for the employment supportive retail appropriate to the PD-RDP district, as well as minimize site design features for the supportive retail uses so as to minimize their view from Route 7. This amendment maintains all of these features from ZCPA 2000-0009 and merely proposes to increase the supportive retail uses maintaining the same proportions as the maximum permitted square footage of some of these land bays increases due to parcel size increase."

Staff recognizes that retail uses were approved under the previous ZCPA for this property.

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ATTORNEYS AT LAW

However, the application is proposing an increase in retail from 103,263 square feet to 111,203 square feet under the Phase One Development Plan, and a maximum of 116,224 square feet under the Ultimate Development Plan. The existing and proposed proffers state that, "these uses may be located in freestanding buildings or located on the first floor of office buildings."

The addition of retail uses cannot be supported unless information is provided which ensures that these additional uses will be internal to the site and/or located on the first floor of office buildings. Staff recognizes that there is a 325 foot setback from Route 7, and that any proposed buildings will incorporate architectural features in accord with design guidelines for University Center, per the existing proffers. However, if retail is freestanding and not internal to the office buildings, it could attract drive-by traffic from Route 7, which is not the intent of employment supportive retail. The existing proffers list retail uses permitted on some of the parcels in University Center. Some of these uses include dry cleaners and tailors, pharmacy stores, office supply stores, restaurants (including fast foods with or without drive-through), video stores, and banks. These uses could be appropriate for Keynote Employment centers, if located within the office buildings or internal to the site. Otherwise, they would attract traffic from outside the community and would not be employment supportive.

Staff recommends that information is provided regarding the location and type of retail proposed. Any additional retail should be internal to the site, or located on the ground floor of proposed office buildings, to be considered employment supportive.

Applicant Response: *The applicant continues to propose the support retail uses under the same terms as was approved under ZCPA 2000-0009, since the Comprehensive Plan policies have not changed since the prior approval. ZCPA 2000-0009 established the location and proportional density for the supportive retail appropriate to the PD-RDP district, as well as the site design features appropriate for the supportive retail uses so as to minimize their view from Route 7. The proposed amendment maintains all of these features from ZCPA 2000-0009 and merely proposes to increase the supportive retail uses maintaining the same proportions as the maximum permitted square footage of some of these land bays increases due to parcel size increase. It is not unreasonable for a community as large as University Center, including the 2.2 million maximum square feet in this application, plus the university campus facility and the PD-RDP and residential properties remaining under the prior zoning for the property to include a maximum potential of 140,746 square feet of accessory retail. Less than 2.5% of the entire University Center non-residential square footage would be support retail under these proffers.*

RECOMMENDATION

Staff is able to support the additional office uses on site, as the proposed office uses are compatible with Keynote Employment. However, staff is unable support additional retail until such time information is provided regarding the location and type of retail proposed. Any

additional retail should be internal to the site, or located on the ground floor of proposed office buildings to be considered employment supportive.

Applicant Response: *The applicant continues to propose the support retail and other commercial uses under the same terms as was approved under ZCPA 2000-0009, since the Comprehensive Plan policies have not changed since the prior approval.*

**LOUDOUN COUNTY DEPARTMENT OF BUILDING AND DEVELOPMENT –
ZONING ADMINISTRATION (TERESA MILLER, 10/3/2007)**

CRITICAL ISSUES

1. The following comments are those of Susan Glass, Proffer Manager, regarding the proffer audit of ZCPA-2000-0009. The proffers proposed with this application are to take the place of proffers associated with ZCPA-2000-0009, some of which have yet to be fulfilled.
 - Proffer 2.D indicates provides for the construction of trails shown on the Pedestrian Amenities Plan; the audit indicates this effort is ongoing. It is noted that there is a deficiency in the trail connections between buildings. Somehow this was missed in prior site plans. We need to ensure the trails are constructed along the roads and between the buildings.

Applicant Response: *The proposed proffers for ZCPA 2006-0005 includes this proffer, and the applicant has not indicated that this proffer has been fulfilled, but rather that it is an ongoing proffer under the proposed ZCPA. This proffer is carried forward from not only ZCPA 2000-0009, but from ZMAP 1992-0004/ZCPA 1992-0009. The proffers intend that each parcel will construct its portion of the four-foot wide pedestrian trails as its site plan is approved and the parcel is developed. The applicant believes that this has been the case and that it will be continued under the proposed proffers.*

2. Proffer 3 provides for Rt 7 Setbacks and includes a provision for a unified and coordinated landscape buffer 100 ft in depth and located within the parking setback. The proffer audit indicates this proffer has been fulfilled, which is incorrect. There is currently a row of leyland cypress trees that have been planted along Rt 7 pursuant to proffer 4.D. The 100 ft landscape buffer proffer should be retained and needs to be included in each site plan for property adjacent to Rt 7.

Applicant Response: *Due to the status of the interchange design plans, which are ready for approval, this proffer needs to be deleted for parcels E, F, P and I-2, which are the parcels affected by the interchange design. The proffers and the proffer audit have been revised to reflect this change.*

- Proffer 5.B provides for landscaping, fencing and berming along the eastern edge of the 50 ft setback on parcel E. The proffer audit indicates this proffer will be deleted with the ZCPA 2006-0005. This proffer should not be deleted without the consent of the residents of the Potomac Farms subdivision.

Applicant Response: *The proffer audit has been revised to indicate that this buffer proffer is being revised under ZCPA 2006-0005 upon the recommendation of the County Urban Forester. A buffer along the western property line of parcel E, has been provided pursuant to the revised buffer treatment plan proposed under ZCPA 2006-0005.*

- Proffer 10 provides for the establishment of employment enclaves for mentally disabled workers and that the owners shall provide literature explaining the enclave concept to all employers on the property. The proffer audit indicates that this is an ongoing effort. My question is what has taken place to fulfill this proffer to date? I've never heard anything about handicapped enclaves at University Center. What documentation exists?

Applicant Response: *The proposed proffers for ZCPA 2006-0005 continue to include this proffer, which first was included in the University Center proffers for ZMAP 1992-0004 and ZCPA 1992-0009. The purpose of the proffer audit was to establish which proffers had been fulfilled to justify deleting the language from the proffers. This proffer will be maintained. The applicant is willing to meet with zoning staff, separately, to discuss fulfillment of the ongoing proffers.*

- Proffer 11 provides for a tree preservation program. The proffer audit included a copy of a report that University Center's developer and reports that the proffer is fulfilled; however, it appears that it only covers the SW quadrant of the property. It appears a report for the rest of the property is needed.

Applicant Response: *The proffer audit was provided for ZCPA 2000-0009, which involved primarily the parcels in the southwestern portion of the property. The Specimen Tree Audit, examined all of the parcels included in ZCPA 2000-0009, except for Parcel A which has been dedicated to the County for open space, public use and right-of-way purposes. Some of the parcels did not contain any specimen trees that met the criteria for inclusion in the report.*

PROFFERS

1. The revision dates of the plan sheets are not consistent in the proffers (introduction as compared to proffer 1.). Please ensure that the revision dates within the proffers match as well as the revision dates on the proffered sheets of the CDP.

Applicant Response: *The proffers and CDP have been revised to include a consistent revision date.*

PLAN COMMENTS

1. Please insure that revision and plan dates are correct for all proffered sheets as there are variations on some pages. The dates of the proffered sheets of the CDP need to be consistent with the dates of the sheets referenced within the proffers. The proffers currently list sheets to be dated as of March 31, 2007; however this is not the date reflected on some of the sheets.

Applicant Response: *The plan dates and proffers have been revised.*

OTHER

1. The statement of justification states an increase from 150.13 to 160.89. This calculation would indicate that the additional developable land would be approximately 10 acres. The amount of acreage would seem to be overstated as that compared to the acreage reflected within the CDP and proffers. (2.99 Presidential Drive + 5 acres Interchange Dedication = 7.99 acres).

Applicant Response: *The Statement of Justification has been revised to be consistent with the CDP and proffers.*

2. Statement of Justification Section III. Project Summary, the retail floor area shall not exceed a maximum of 5% of the total permitted floor area. Within the plans, Sheet 7 of both ZCPA-2000-0009 and ZCPA-2006-0005 state that retail will not exceed a maximum of 11% of the total permitted floor area. Correct the Statement of Justification to agree with the proffers as well as the CDP.

Applicant Response: *The Statement of Justification has been revised to be consistent with the proffers and CDP.*

LOUDOUN COUNTY OFFICE OF TRANSPORTATION SERVICES (GEORGE PHILLIPS, 5/14/2007)

Transportation Comments

1. No interchange land can be returned to the applicant until the construction plans for the interchange receive final approval. It needs to be confirmed that all right-of-way needed for the approved construction plans is being provided. *The applicant notes that the preliminary design has been approved by the Loudoun Board Of Supervisors and that the preliminary constructions plans have been approved by OTS and VDOT (See attachment 1). The applicant notes that final construction plans will be submitted shortly for final review and signature. Once this is completed, this issue will be adequately addressed.*

Applicant Response: *The final signature version of the construction plans are being submitted this week.*

2. The proposed use will increase site traffic and exacerbate congestion and failing (LOS F with average delays on some approaches of between 6-9 minutes) levels of service at the Route 7/Loudoun County Parkway and Route 7/George Washington Blvd. /Presidential Drive intersections. Since the provision of the Route 7/Loudoun County Parkway interchange is considered the most important improvement to address these concerns, the applicant needs to provide a fair share contribution towards the construction of this interchange. The approved proffers for the preliminary design and construction plans included \$1,000,000. The design process was lengthy and complicated and it is possible that this amount was exceeded by the applicant. OTS will take this into account with regard to the request for a fair share contribution. *The applicant has provided documentation that they spent \$1,266,045 for the interchange design and engineering. In addition, the applicant notes in the draft proffers, that they will provide a cash contribution of \$696,000 (based on the applicant's estimated cost of Loudoun County Parkway between Route 7 and George Washington Boulevard) towards the construction of the Route 7/Loudoun County Parkway interchange. Has this road cost estimate been confirmed by VDOT? Please clarify. Also, there is no cash equivalent being provided for the proposed removal of turn lanes on southbound Loudoun County Parkway and a west bound right turn lane on Route 7 onto northbound Loudoun County Parkway. Please clarify.*

Applicant Response: *The applicant has incurred \$38,000 in additional costs for the interchange design, since the April 2007 submittal of this application as follows: floodplain alteration study - \$30,000 and floodplain alteration review fees - \$8,000. The total amount expended toward the interchange design plans now is \$1,304,045. The applicant supplied a construction cost estimate for the interim location of Loudoun County Parkway if it were to be constructed, of \$696,000 and is proffering that amount.*

3. What is the timing/status of constructing the western portion of Riverside Parkway from the Loudoun County Parkway to the northwest on the planned alignment within the site? Also, what is the status of extending Riverside Parkway to the south, over Route 7 to Russell Branch Parkway? Please clarify. *The applicant notes that they have dedicated a 132 acre parcel to Loudoun County which includes the land area for the Riverside Parkway and Loudoun County Parkway rights-of-way. It is now under control of the County which it can dedicate for future right-of-way and construction if desired. Issue addressed.*

Applicant Response: *Comment noted.*

4. Several clarifications are needed from the applicant regarding the draft proffers. On page 4 under 4. (A) Retail Development, the applicant refers to possible increases in retail square footage. The traffic study only refers to an increase in office square footage. Please clarify. Also, on page 8 of the draft proffers under 7. On-Site and Off Site Regional Road Improvements 1. Loudoun County Parkway, the applicant is removing the construction language for the Loudoun County Parkway between Route 7 and George Washington Blvd. and replacing it with a \$1,000,000 cash equivalency. In addition, the applicant is removing

other turn lane commitments in paragraphs 1.b, 1c, and 1d. Under most circumstances, OTS wants actual construction. Why are these changes being proposed in the proffers? Further discussion is needed. *The applicant notes that the retail would be a maximum of 11% and is ancillary/support to the PD-RDP uses. The applicant also notes that the cash equivalent contribution was requested by County staff since any construction of the Loudoun County Parkway north of Route 7 would be torn up by the interchange and the cash would be applied to the ultimate interchange construction. However, the cash equivalent noted in the draft proffers was not provided for several transportation improvements including the southbound turn lanes on the Loudoun County Parkway and the westbound right turn lane on Route 7 onto Loudoun County Parkway.*

Applicant Response: *The applicant supplied a construction cost estimate for the interim location of Loudoun County if it were to be constructed of \$696,000 and is proffering that amount along with exceeding the proffered costs for the interchange design approval by nearly \$304,250.*

Recommendation

The applicant still needs to adequately address the above outstanding issues. The Office of Transportation Services has no recommendation at this time. Transportation staff is available to further discuss these issues with the applicant.

Applicant Response: *The applicant requests a meeting with OTS staff to discuss these comments.*

**VIRGINIA DEPARTMENT OF TRANSPORTATION (THOMAS VAN POOLE,
6/18/2007)**

1. ZCPA 2000-0009 allowed the applicant to develop 67% more non-residential development than ZMAP 1992-0004 without triggering significant phased transportation proffers originally intended to mitigate the impact of such development. The applicant prefers to emphasize the reduction in ultimate total development proposed. This application proposes to increase the additional development to 78% of the original proffer phase trigger.

Applicant Response: *It is not clear what numbers were used to support this statement. The current proposed square footage, along with the maximum permitted square footage in the balance of the University Center project is a 32% reduction from the prior maximum approved square footages. The applicant has funded the costs of the design of the grade-separated interchange at a cost of approximately \$1.34 million and with the additional cash contribution proffered, the proffer contributions for the roads will be \$2 million.*

2. The amount of previously reserved right of way available for development is dependent of final approval of the interchange plans. The final detailed interchange design has only recently been submitted for first review.

Applicant Response: *The final signature version of the construction plans are being submitted this week. The concept plan reflects the right-of-way proposed in the construction plans.*

3. The cost estimate submitted for review appears to be for the interchange design rather than for the George Washington Boulevard construction (proffer 7.(A).1.a).

Applicant Response: *The cost estimate is for the Loudoun County Parkway construction costs proffered in ZCPA 2000-0009. The construction of the remaining portion of George Washington Boulevard is in progress pursuant to CPAP 2005-0128. This construction plan includes the T-intersection of George Washington Boulevard and Loudoun County Parkway.*

4. 4' wide trails (proffer 2. (D)) do not comply with current ADA, AASHTO, and VDOT policies for accessible routes and shared use paths. While this is an unfulfilled proffer carried over from earlier applications, it should be updated to reflect current accessibility and pedestrian accommodation policies.

Applicant Response: *The applicant is proffering to continue the development under the current approved pedestrian plan, since nearly all of the 4' wide trails have been constructed.*

The procedures for abandonment of public roads and vacation of public rights of way and disposition of such rights of way are prescribed in § 33.1-156 through 33.1-167 and 15.2-2006 through 15.2-2008 of the Code of Virginia. The county attorney should determine whether proposed proffer 7.(A).3 is consistent with the code, and does not unduly limit the County Board's discretion under the code..

Applicant Response: *The applicant acknowledges the legal process that must be undertaken to accomplish the abandonment of Presidential Drive. The purpose of the proffer and concept plan amendment is to remove any zoning impediment (i.e., governing proffers and concept plan) to the abandonment process.*

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH &
WALSH, P.C.

Christine Gleckner, AICP
Land Use Planner

CEG/tlm

cc: Deborah Behrend, Wells Fargo

**APPLICANT'S RESPONSE TO COMMENTS OF
OFFICE OF THE COUNTY ATTORNEY
DATED JULY 3, 2007
October 17, 2007**

1. *In regard to the preamble, in the nineteenth line thereof, the applicant has inserted the parenthetical "(1972)". I suggest that this be deleted. While the property is administered under the 1972 Zoning Ordinance, that particular fact is set forth in the Revised 1993 Zoning Ordinance. In order to avoid confusion, I recommend that the ordinance date not be referenced.*

Response: The preamble has been revised as recommended.

2. *In further regard to the preamble, in the twenty-second line thereof, I note that the applicant has referenced a Concept Plan that was last revised March 31, 2007. However, the cover sheet for the concept plan says that the last revision date is April 16, 2007. I suggest that this inconsistency be eliminated.*

Response: The Concept Plan revision dates referred to in the proffers have been revised to be consistent.

3. *In further regard to the preamble, I note that it states that this set of proffers supercedes and replaces any and all exiting proffers. However, this statement goes on to exempt zoning modifications previously approved. I do not see why the applicant is totally replacing the proffers but not the zoning modifications. I suggest that the applicable zoning modifications that are to remain in effect, be included in this application and be attached to these proffers as an exhibit.*

Response: The applicable zoning modifications that are to remain in effect are attached to these proffers as an exhibit.

4. *In regard to proffer 1., concerning the Concept Plan, I note that the applicant is now referencing a final revision date of April 11, 2007. I see where this date appears on some of the sheets of the Concept Plan, but not on the cover sheet, which bears the final revision date of April 16, 2007. I suggest that these inconsistencies be eliminated and that all sheets should bear the same final revision date.*

Response: The revised proffers and all sheets of the Concept Plan reflect the same revision date.

5. *In regard to proffer 2.(D), I note that the applicant has stated their intent in regard to the provision of the four foot wide trail, but has included no provision to address the eight foot wide trail or pedestrian nodes shown on the Concept Plan. I suggest that these be addressed.*

Response: This proffer is consistent with the proffers approved for ZCPA 2000-0009, and the applicant is not proposing to change this proffer.

6. *In regard to proffer 3., concerning the Route 7 setbacks, I note that the applicant has proposed deleting a provision that requires all site plans along Route 7 to conform to an overall landscape plan. I suggest that language is needed to clarify that the applicant established a unified and coordinated landscape buffer 100 feet in depth known as the Route 7 Landscape Concept for ZCPA 2000-0009, and that all site plans will adhere to the provisions of such plan. Additionally, since all of the proffers for ZCPA 2000-0009 are being superceded, I suggest that the referenced landscape plan be attached as an exhibit to this set of proffers.*

Response: The construction plans for the interchange preclude the Route 7 landscape plan from being constructed on Parcels E, F, P and I-2 and is being deleted for those parcels. The Route 7 Landscape Plan will be retained for Parcels I-4 and L-1 included in this application. It also continues to apply to the parcels along Route 7 that remain under the proffers for ZMAP 1992-0004 and ZCPA 1992-0009. The proffers continue to reference the governing Landscape Plan.

7. *In regard to proffer 4.(A), I note that the applicant has indicated that the level of retail development shall not exceed 111,203 square feet under the Phase One Development Plan as depicted on Sheet 8. However, nowhere has the applicant identified what constitutes Phase One, or what is a trigger for exceeding Phase One, nor has the applicant shown the level of retail development on Sheet 8, as stated. I suggest that this proffer be clarified.*

Response: The notes on Sheet 7 of the Concept Plan explain the phases and the triggers. These notes have been replicated on Sheet 8 of the revised Concept Plan. In addition, the phases and triggers have been added to Proffer 1, and Proffer 4(A) has been revised to refer to the revised Proffer 1.

8. *In regard to proffer 4.(D), I note that in one place the applicant has struck the reference to "SPPL 1989-0055" while in another has added a reference to "SPPL 1989-005." I believe that the intent was to refer to the same plan set, but the numbers are different. I suggest that this inconsistency be eliminated.*

Response: The proffers have been revised to correct the inconsistency.

9. *In regard to proffer 5.(A), concerning the buffer between Land Bay E and the Potomac Farms Subdivision, I note that the proffer is couched in terms of maintaining an existing buffer, while the referenced Exhibit shows new plantings as being required. I suggest*

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that this inconsistency be eliminated.

Response: The proffer has been revised to reflect new plantings in addition to maintaining existing vegetation.

10. *In regard to proffer 5.(C), in the fifth line thereof, I suggest that the word “, and” be inserted following the phrase “University Center.*

Response: The proffer has been revised as recommended.

11. *In regard to proffer 6.(B), in the first line thereof, the applicant has referenced “the Building Code”. This is an inadequate reference. I suggest that the applicant clarify what building code they are referencing.*

Response: The proffer has been revised to refer to the Virginia Uniform Statewide Building Code.

12. *In regard to proffer 7.(A), in the second line thereof, I suggest that the phrase “as set forth in each respective proffer” be inserted following the phrase “following road improvements”.*

Response: The proffer has been revised as recommended.

13. *In regard to proffer 7.(A)1.a., in the first line thereof, I suggest that the phrase “to the County” be inserted following the word “Pay”.*

Response: The proffer has been revised as recommended.

14. *In regard to proffer 7.(A)2.a., in the second line thereof, I suggest that the word “its” be inserted prior to the phrase “current terminus”.*

Response: The proffer has been revised as recommended.

15. *In further regard to proffer 7.(A)2.a., concerning the construction of George Washington Boulevard, I note that there is no timing mechanism included to indicate when the construction is to commence or by when it is to be completed. I suggest that this be clarified.*

Response: The construction plans and profiles for this improvement have been approved and bonded and construction has commenced. The proffer has been revised to reflect this status.

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16. *In regard to proffer 7.(A)3., I note that the lead for proffer 7.(A) does not work with this provision, as this proffer contains neither a commitment to construct/bond for construction or to provide a cash contribution. Therefore, I suggest that the phrase "The Owners shall" be inserted prior to the phrase "request vacation". In addition, I suggest that it be clarified that the Owners will, if the road is vacated, assume responsibility for the physical removal of the roadway. Additionally, I note that the vacation of this roadway brings access for Parcels F and P into question. As shown at Ultimate build out, Parcel F would have access to George Washington Boulevard, but Parcel P would not, nor would it have direct frontage on any roadway. I suggest that the issue of access for Parcels F and P be addressed, specifically including whether direct access to George Washington Boulevard from Land Bay F is acceptable, whether Parcel P, with no public road frontage, is acceptable and generally how Parcel P is to access a public road without such frontage.*

Response: The recommended phrase has been added to the beginning of this proffer. The proffer also has been revised to address removal of the roadway and access to George Washington Boulevard for Parcels F and P.

17. *In further regard to proffer 7.(A)3., in the fourth line thereof, I suggest that the phrase "Ownership of" be inserted prior to the phrase "the vacated right-of-way".*

Response: The proffer has been revised as recommended.

18. *In regard to the applicant's proposal to delete proffer 7.(C), concerning a cash in lieu contribution if others build a proffered improvement, I suggest that this provision be retained, as the applicant is still proffering to construct George Washington Boulevard on site, and this improvement could conceivably be constructed by others.*

Response: The construction plans and profiles for the George Washington Boulevard improvements have been approved and bonded (CPAP 2007-0073), and the improvements currently are under construction. Therefore, the applicant does not believe that a cash in lieu of construction proffer is necessary in this particular instance.

19. *In regard to proffer 7.(D)2., in the first line thereof, I suggest that the phrase "for the Route 7/Loudoun County Parkway interchange" be inserted following the phrase "preliminary design plans".*

Response: The proffer has been revised as recommended.

20. *In further regard to proffer 7.(D)2., concerning the submission of the construction plans for the single point urban diamond-style interchange, I note that there is no indication as*

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to what the status of such submission is. I suggest that it be clarified as to whether the construction plans have been approved or whether such plans are still pending.

Response: The final signature version of the interchange construction plans are being submitted this week. The applicant anticipates that these plans will be approved prior to Board final action on these proffers. The proffers can be revised as recommended once the approval has occurs.

21. *In regard to proffer 7.(E), in the second line thereof, I suggest that a comma be inserted following the word "County".*

Response: The proffer has been revised as recommended.

22. *In regard to proffer 7.(E)1., I note that there is a reference to "approved Construction Plans and Profiles for the Route 7/Route 607 Interchange prepared by Dewberry and submitted to the County on February 15, 2005." It is not clear if these are the same plans referenced in proffer 7.(D)2. If they are, then I suggest that this be clarified, perhaps by referencing the CPAP number in both proffers.*

Response: The CPAP number has been included in both proffers.

23. *In regard to proffers 7.(E)2. and 7.(E)3., which the applicant proposes to delete in their entirety, it appears that the applicant is proposing to no longer dedicate right of way for the extension of George Washington Boulevard west of Loudoun County Parkway, and it is not clear, but it also appears that they intend to delete the requirement to provide land for the extension of Loudoun County Parkway. I urge staff to review the appropriateness of such deletions.*

Response: In regard to proffer 7.(E).2, the construction plans prepared for CPAP 2005-0128 were designed, at the direction of staff, to preclude the possibility of an extension of George Washington Boulevard to the west. In regard to proffer 7.(E).3, the right-of-way for the extension of Loudoun County Parkway to the north has been dedicated to the County and recorded at Instrument # 20051003-0112080, which is why the proffers indicate that the Loudoun County Parkway dedication proffer has been fulfilled. Furthermore, the applicant submitted a proffer audit of the ZCPA 2000-0009 proffers, and Zoning staff had no issues with regard to the fulfillment of proffer 7.(E).3.

24. *In regard to proffer 9., it appears that the applicant wishes to delete its requirement to construct on-site improvements to Loudoun County Parkway. I note that in proffer 7.(A)1. the applicant proposes to provide cash in lieu of construction for the portion of Loudoun County Parkway from the Route 7 interchange to George Washington*

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Boulevard, but this proffer proposes deleting the portion north of George Washington Boulevard as well, with no cash in lieu of construction. I urge staff to review the appropriateness of such additional deletion.

Response: The only portion of Loudoun County Parkway the applicant was required to construct under the proffers for ZCPA 2000-0009 was the portion between George Washington Boulevard and Route 7 (Proffer 7.(A)1.a) The Proffer 7 heading (ZCPA 2000-0009) referred to on-site and off-site regional road improvements. At the request of staff, the applicant has undertaken the proposed proffer amendment to provide the cash in lieu of construction for the portion of Loudoun County Parkway the applicant was obligated to construct under ZCPA 2000-0009, which is why the reference to Loudoun County Parkway is being deleted under Proffer 9.

25. *In further regard to proffer 9., in the last sentence thereof, I note that the applicant states that individual parcel access to public streets shall be as indicated on Sheets 7 and 8 of the CDP. However, these two sheets do not provide clarity as to the access for Parcels F and P. I suggest that the applicant's intent in this regard be clarified.*

Response: Access for Parcel F is shown with the two arrows on Parcel F at two of the median crossovers on George Washington Boulevard. The access for Parcel P has been clarified in Proffer 3, in response to your comment #16 above.

26. *In regard to proffer 11., I note that the applicant is proposing to delete the first sentence of the proffer. However, I believe that this sentence, modified to reflect that the Specimen Tree Audit has been performed, is still needed in order to provide some context for the rest of the proffer.*

Response: The proffer has been revised to reflect the status of the Specimen Tree Audit, which the applicant had submitted pursuant to the proffers for ZCPA 2000-0009.

27. *In regard to proffer 13., in the second line thereof, I suggest that the phrase "and shall be" be inserted prior to the phrase "subject to appropriate easements".*

Response: The proffer has been revised as recommended.

28. *These proffers will need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.*

Response: Comment noted.